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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,908	02/25/2004	Christopher Hallam	148/359	4399
23638	7590	07/05/2007		
ADAMS EVANS P.A. Suite 2350 Charlotte Plaza 201 South College Street CHARLOTTE, NC 28244			EXAMINER ELKINS, GARY E	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 07/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/786,908

Applicant(s)

HALLAM, CHRISTOPHER

Examiner

Gary E. Elkins

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 6-13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wasyluka. Wasyluka discloses a blank (fig. 1) formed by two panels (12, 13) connected by connecting parts or fold lines 24. The blank is capable of being folded along the connecting parts 24 into face to face relationship and is capable of forming engaging means as claimed. Each connecting part 24 (e.g. formed between 21, 21'; two connecting parts formed between 20, 20', etc.) extends along a part only of a mutual edge (A-A where the panels abut) of the first and second panels adjacent the engaging means as claimed. With respect to claims 6 and 17, note is made of the central connecting part 24 and the right end connecting part as viewed in fig. 1 which is about 1/5 of the circumference of the carton which the blank is capable of forming. Also, with respect to claims 9-12, note is made that each of the connecting parts is also considered to be a frangible tab insofar as claimed.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 5, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasyluka. Wasyluka discloses all structure of the claimed blank except formation of the connecting part from about 3 cm to about 5 cm (cls. 4 and 15) or about 4 cm (cls. 5 and 16). It would have been obvious to make one of the connecting parts in Wasyluka with a length of about 3 to about 5 cm or about 4 cm as a mere selection of the size of the container. The ability to size a container to hold any reasonable size of content is within the level of skill in this art. See In re Rose, 105 USPQ 237 (CCPA 1955) and Gardiner v. TEC Systems, Inc., 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 225 USPQ 232 (1984).

***Response to Arguments***

5. Applicant's arguments filed 06 October 2006 have been fully considered but they are not persuasive.

The remarks assert that the limitation that the first panel is connected to the second panel along a minor part of the fold line defines over Wasyluka. The remarks also assert that Wasyluka shows a similar structure the claimed blank except for the connecting part "which Examiner says would be obvious to connect". In response, each of the connecting parts in Wasyluka as defined in the prior office action rejection/remarks constitutes connection along a minor part of the entire edge between the blank panels. This would also necessarily mean that the first panel is connected to the second panel along one of the individual connection parts along a minor part of a fold line extending along the entire edge between the panels as claimed. It is noted that, as defined by Applicant, the fold line is imaginary, i.e. it does not constitute a structure or score within the disclosed blank and therefor would have no fixed length, but merely a direction along its length. Also, the statement that the rejection indicates that it "would be

obvious to connect” is unclear in light of the rejections as set forth, i.e. the rejections are making no statement with respect to an obviousness to connect.

### ***Conclusion***

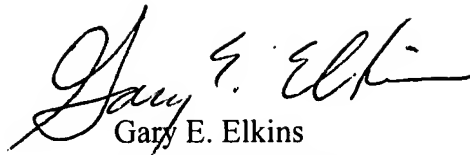
In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.

Art Unit: 3782

A handwritten signature in black ink, appearing to read "Gary E. Elkins". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

Gary E. Elkins  
Primary Examiner  
Art Unit 3782

gee  
25 June 2007